

FIRST REGULAR SESSION

HOUSE BILL NO. 93

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LICHTENEGGER (Sponsor), TORPEY,
HAMPTON AND ELMER (Co-sponsors).

0217H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 104.1015, 104.1021, 104.1051, 104.1084, and 104.1087, RSMo, and to enact in lieu thereof five new sections relating to retirement benefits.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 104.1015, 104.1021, 104.1051, 104.1084, and 104.1087, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 104.1015,
3 104.1021, 104.1051, 104.1084, and 104.1087, to read as follows:

104.1015. 1. Persons covered by a closed plan on July 1, 2000, shall elect whether or
2 not to change to year 2000 plan coverage. Any such person who elects to be covered by the year
3 2000 plan shall forfeit all rights to receive benefits under this chapter except as provided under
4 the year 2000 plan and all creditable service of such person under the closed plan shall be
5 credited under the year 2000 plan. Any such person who elects not to be covered by the year
6 2000 plan shall waive all rights to receive benefits under the year 2000 plan. In no event shall
7 any retroactive annuity be paid to such persons pursuant to sections 104.1003 to 104.1093 except
8 as described in subsection 2 of this section.

9 2. Each retiree of the closed plan on July 1, 2000, shall be furnished by the appropriate
10 system a written comparison of the retiree's closed plan coverage and the retiree's potential year
11 2000 plan coverage. A retiree shall elect whether or not to change to year 2000 plan coverage
12 by making a written election, on a form furnished by the appropriate board, and providing that
13 form to the system by no later than twelve months after July 1, 2000, and any retiree who fails
14 to make such election within such time period shall be deemed to have elected to remain covered
15 under the closed plan; provided the election must be after the retiree has received from the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 appropriate system such written comparison. The retirement option elected under the year 2000
17 plan shall be the same as the retirement option elected under the closed plan, except any retiree
18 who is receiving one of the options providing for a continuing lifetime annuity to a surviving
19 spouse under the closed plan may elect to receive an annuity under option 1 or 2 of section
20 104.1027, or a life annuity under subsection 2 of section 104.1024, provided the person who was
21 married to the member at the time of retirement, if any, consents in writing to such election made
22 pursuant to section 104.1024, or to any election described in this section if the person was
23 married to a member of the Missouri state employees' retirement system. The effective date of
24 payment of an annuity under the year 2000 plan as provided in this subsection shall begin on July
25 1, 2000. No adjustment shall be made to retirement benefits paid to the retiree prior to July 1,
26 2000. In order to calculate a new monthly annuity for retirees electing coverage under the year
27 2000 plan pursuant to this subsection, the following calculations shall be made:

28 (1) Except as otherwise provided in this subsection, the retiree's gross monthly
29 retirement annuity in effect immediately prior to July 1, 2000, shall be multiplied by the
30 percentage increase in the life annuity formula between the closed plan and the year 2000 plan.
31 This amount shall be added to the retiree's gross monthly retirement annuity in effect
32 immediately prior to July 1, 2000, to arrive at the retiree's new monthly retirement annuity in the
33 year 2000 plan on July 1, 2000. The age of eligibility and reduction factors applicable to the
34 retiree's original annuity under the closed plan shall remain the same in the annuity payable under
35 the year 2000 plan, except as provided in subdivision (2) of this subsection;

36 (2) If option 1 or 2 pursuant to section 104.1027 is chosen by the retiree under the year
37 2000 plan, the new monthly retirement annuity calculated pursuant to subdivision (1) of this
38 subsection shall be recalculated using the reduction factors for the option chosen pursuant to
39 section 104.1027;

40 (3) If a temporary annuity is payable pursuant to subsection 4 of section 104.1024 the
41 additional temporary annuity shall be calculated by multiplying the retiree's credited service by
42 the retiree's final average pay by eight-tenths of one percent;

43 (4) Cost-of-living adjustments paid pursuant to section 104.1045 will commence on the
44 anniversary of the retiree's annuity starting date coincident with or next following July 1, 2000;

45 (5) **Subject to subsection 4 of section 104.1084**, any retiree or other person described
46 in this section who elects coverage under the year 2000 plan based on service rendered as a
47 member of the general assembly or as a statewide elected official shall receive an annuity under
48 the year 2000 plan calculated pursuant to the provisions of section 104.1084 using the current
49 monthly pay at the time of the election with future COLAs calculated pursuant to subsection 7
50 of section 104.1084.

51 3. Each person who is an employee and covered by the closed plan and not a retiree of
52 the closed plan on July 1, 2000, shall elect whether or not to change to year 2000 plan coverage
53 prior to the last business day of the month before the person's annuity starting date, and if such
54 election has not been made within such time, annuity payments due beginning on and after the
55 month of the annuity starting date shall be made the month following the receipt by the
56 appropriate system of such election and any other information required by the year 2000 plan
57 created by sections 104.1003 to 104.1093; provided, such election must be after the person has
58 received from the year 2000 plan a written comparison of the person's closed plan coverage and
59 the person's potential year 2000 plan coverage and the election must be made in writing on a
60 form furnished by the appropriate board. If such person dies after the annuity starting date but
61 before making such election and providing such other information, no benefits shall be paid
62 except as required pursuant to section 104.420 or subsection 2 of section 104.372 for members
63 of the general assembly.

64 4. Each person who is not an employee and not a retiree and is eligible for a deferred
65 annuity from the closed plan on July 1, 2000, shall elect whether or not to change to the year
66 2000 plan coverage prior to the last business day of the month before the person's annuity
67 starting date, and if such election has not been made within such time, annuity payments due
68 beginning on and after the month of the annuity starting date shall be made the month following
69 the receipt by the appropriate system of such election and any other information required by the
70 year 2000 plan created by sections 104.1003 to 104.1093; provided, the election must be after
71 the person has received from the year 2000 plan a written comparison of the person's closed plan
72 coverage and the person's potential year 2000 plan coverage and the election must be made in
73 writing on a form furnished by the appropriate board. If such person dies after the annuity
74 starting date but before making such election and providing such other information, no benefits
75 shall be paid except as required pursuant to section 104.420 or subsection 2 of section 104.372
76 for members of the general assembly.

77 5. Each person who is not an employee and not a retiree and is eligible for a deferred
78 annuity from the closed plan and returns to covered employment on or after July 1, 2000, shall
79 be covered under the closed plan; provided, such person shall elect whether or not to change to
80 the year 2000 plan coverage prior to the last business day of the month before the person's
81 annuity starting date, and if such election has not been made within such time, annuity payments
82 due beginning on and after the month of the annuity starting date shall be made the month
83 following the receipt by the appropriate system of such election and any other information
84 required by the year 2000 plan created by sections 104.1003 to 104.1093 and the election must
85 be after the person has received from the year 2000 plan a written comparison of the person's
86 closed plan coverage and the person's potential year 2000 plan coverage and the election must

87 be made in writing on a form furnished by the appropriate board. If such person dies after the
88 annuity starting date but before making such election and providing such other information, no
89 benefits shall be paid except as required under section 104.420 or subsection 2 of section
90 104.372 for members of the general assembly.

91 6. Each person who is not an employee and not a retiree and not eligible for a deferred
92 annuity from the closed plan but has forfeited creditable service with the closed plan and
93 becomes an employee on or after August 28, 2002, shall be changed to year 2000 plan coverage
94 and upon receiving credited service continuously for one year shall receive credited service for
95 all such forfeited creditable service under the closed plan.

96 7. Each person who was employed as a member of the general assembly through
97 December 31, 2000, covered under the closed plan, and has served at least two full biennial
98 assemblies as defined in subdivision (24) of subsection 1 of section 104.010 but who is not
99 eligible for a deferred annuity under the closed plan shall be eligible to receive benefits under
100 the new plan pursuant to subdivision (5) of subsection 2 of this section upon meeting the age
101 requirements under the new plan.

102 8. The retirees and persons described in subsections 2 and 4 of this section shall be
103 eligible for benefits under those subsections pursuant to subsection 8 of section 104.610.

104 9. A member may change a member's plan election made under this section at any time
105 prior to the system mailing or electronically transferring the first annuity payment to such
106 member.

104.1021. 1. The appropriate board shall determine how much credited service shall be
2 given each member consistent with this section.

3 2. If a member terminates employment and is eligible to receive an annuity pursuant to
4 the year 2000 plan, or becomes a vested former member at the time of termination, the member's
5 or former member's unused sick leave as reported through the financial and human resources
6 system maintained by the office of administration, or if a department's employees are not paid
7 salaries or wages through such system, as reported directly by the department, for which the
8 member has not been paid will be converted to credited service at the time of application for
9 retirement benefits. The member shall receive one-twelfth of a year of credited service for each
10 one hundred and sixty-eight hours of such unused sick leave. The employing department shall
11 not certify unused sick leave unless such unused sick leave could have been used by the member
12 for sickness or injury. The rate of accrual of sick leave for purposes of computing years of
13 service pursuant to this section shall be no greater than ten hours per month. Such credited
14 service shall not be used in determining the member's eligibility for retirement or final average
15 pay. Such credited service shall be added to the credited service in the last position of
16 employment held as a member of the system.

17 3. If a member is employed in a covered position and simultaneously employed in one
18 or more other covered or noncovered positions, credited service shall be determined as if all such
19 employment were in one position, and covered pay shall be the total of pay for all such positions.

20 4. In calculating any annuity, "credited service" means a period expressed as whole years
21 and any fraction of a year measured in twelfths that begins on the date an employee commences
22 employment in a covered position and ends on the date such employee's membership terminates
23 pursuant to section 104.1018 plus any additional period for which the employee is credited with
24 service pursuant to this section.

25 5. A member shall be credited for all military service after membership commences as
26 required by state and federal law.

27 6. Any member who had active military service in the United States Army, Air Force,
28 Navy, Marine Corps, Army or Air National Guard, Coast Guard, or any reserve component
29 thereof prior to last becoming a member, or who is otherwise ineligible to receive credited
30 service pursuant to subsection 1 or 5 of this section, and who became a member after the person's
31 discharge from military service under honorable conditions may elect, prior to retirement, to
32 purchase credited service for all such military service, but not to exceed four years, provided the
33 person is not receiving and is not eligible to receive retirement credits or benefits from any other
34 public or private retirement plan, other than a United States military service retirement system,
35 for the military service to be purchased along with the submission of appropriate documentation
36 verifying the member's dates of active service. The purchase shall be effected by the member
37 paying to the system an amount equal to the state's contributions that would have been made to
38 the system on the member's behalf had the member been a member for the period for which the
39 member is electing to purchase credit and had the member's pay during such period of
40 membership been the same as the annual pay rate as of the date the member was initially
41 employed as a member, with the calculations based on the contribution rate in effect on the date
42 of such member's employment with simple interest calculated from the date of employment to
43 the date of election pursuant to this subsection. The payment shall be made over a period of not
44 longer than two years, measured from the date of election, and with simple interest on the unpaid
45 balance. If a member who purchased credited service pursuant to this subsection dies prior to
46 retirement, the surviving spouse may, upon written request, receive a refund of the amount
47 contributed for such purchase of such credited service, provided the surviving spouse is not
48 entitled to survivorship benefits payable pursuant to the provisions of section 104.1030.

49 7. Any member of the Missouri state employees' retirement system shall receive credited
50 service for the creditable prior service that such employee would have been entitled to under the
51 closed plan pursuant to section 104.339, subsections 2, and 6 to 9 of section 104.340, subsection
52 12 of section 104.342, section 104.344, subsection 4 of section 104.345, subsection 4 of section

53 104.372, section 178.640, RSMo, and section 211.393, RSMo, provided such service has not
54 been credited under the closed plan.

55 8. Any member who has service in both systems and dies or terminates employment shall
56 have the member's service in the other system transferred to the last system that covered such
57 member and any annuity payable to such member shall be paid by that system. Any such
58 member may elect to transfer service between systems prior to termination of employment,
59 provided, any annuity payable to such member shall be paid by the last system that covered such
60 member prior to the receipt of such annuity.

61 9. In no event shall any person or member receive credited service pursuant to the year
62 2000 plan if that same service is credited for retirement benefits under any defined benefit
63 retirement system not created pursuant to this chapter.

64 10. Any additional credited service as described in subsections 5 to 7 of this section shall
65 be added to the credited service in the first position of employment held as a member of the
66 system. Any additional creditable service received pursuant to section 105.691, RSMo, shall be
67 added to the credited service in the position of employment held at the time the member
68 completes the purchase or transfer pursuant to such section.

69 11. A member may not purchase any credited service described in this section unless the
70 member has met the five-year minimum service requirement as provided in subdivisions (11) and
71 (20) of subsection 1 of section 104.1003, the three full biennial assemblies minimum service
72 requirement as provided in section 104.1084, **subject to the provisions of subsection 4 of such**
73 **section**, or the four-year minimum service requirement as provided in section 104.1084.

74 12. Absences taken by an employee without compensation for sickness and injury of the
75 employee of less than twelve months or for leave taken by such employee without compensation
76 pursuant to the provisions of the Family and Medical Leave Act of 1993 shall be counted as
77 years of credited service.

104.1051. 1. Any annuity provided pursuant to the year 2000 plan is marital property
2 and a court of competent jurisdiction may divide such annuity between the parties to any action
3 for dissolution of marriage if at the time of the dissolution the member has at least five years of
4 credited service pursuant to sections 104.1003 to 104.1093. A division of benefits order issued
5 pursuant to this section:

6 (1) Shall not require the applicable retirement system to provide any form or type of
7 annuity or retirement plan not selected by the member;

8 (2) Shall not require the applicable retirement system to commence payments until the
9 member's annuity starting date;

10 (3) Shall identify the monthly amount to be paid to the former spouse, which shall be
11 expressed as a percentage and which shall not exceed fifty percent of the amount of the member's

12 annuity accrued during all or part of the period of the marriage of the member and former spouse
13 and which shall be based on the member's vested annuity on the date of the dissolution of
14 marriage or an earlier date as specified in the order, which amount shall be adjusted
15 proportionately upon the annuity starting date if the member's annuity is reduced due to the
16 receipt of an early retirement annuity or the member's annuity is reduced pursuant to section
17 104.1027 under an annuity option in which the member named the alternate payee as beneficiary
18 prior to the dissolution of marriage;

19 (4) Shall not require the payment of an annuity amount to the member and former spouse
20 which in total exceeds the amount which the member would have received without regard to the
21 order;

22 (5) Shall provide that any annuity increases, additional years of credited service,
23 increased final average pay, increased pay pursuant to subsections 2 and [5] 6 of section
24 104.1084, or other type of increases accrued after the date of the dissolution of marriage and any
25 temporary annuity received pursuant to subsection 4 of section 104.1024 shall accrue solely to
26 the benefit of the member; except that on or after September 1, 2001, any cost-of-living
27 adjustment (COLA) due after the annuity starting date shall not be considered to be an increase
28 accrued after the date of termination of marriage and shall be part of the monthly amount subject
29 to division pursuant to any order issued after September 1, 2001;

30 (6) Shall terminate upon the death of either the member or the former spouse, whichever
31 occurs first;

32 (7) Shall not create an interest which is assignable or subject to any legal process;

33 (8) Shall include the name, address, date of birth, and Social Security number of both
34 the member and the former spouse, and the identity of the retirement system to which it applies;

35 (9) Shall be consistent with any other division of benefits orders which are applicable
36 to the same member.

37 2. A system shall provide the court having jurisdiction of a dissolution of a marriage
38 proceeding or the parties to the proceeding with information necessary to issue a division of
39 benefits order concerning a member of the system, upon written request from either the court,
40 the member, or the member's spouse, citing this section and identifying the case number and
41 parties.

42 3. A system shall have the discretionary authority to reject a division of benefits order
43 for the following reasons:

44 (1) The order does not clearly state the rights of the member and the former spouse;

45 (2) The order is inconsistent with any law governing the retirement system.

46 4. Any member of the closed plan who elected the year 2000 plan pursuant to section
47 104.1015 and then becomes divorced and subject to a division of benefits order shall have the
48 division of benefits order calculated pursuant to the provisions of the year 2000 plan.

 104.1084. 1. For members of the general assembly, the provisions of this section shall
2 supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement
3 eligibility" means attainment of age fifty-five for a member who has served at least three full
4 biennial assemblies or the attainment of at least age fifty for a member who has served at least
5 three full biennial assemblies with a total of years of age and years of credited service which is
6 at least eighty. A member shall receive two years of credited service for every full biennial
7 assembly served. A full biennial assembly shall be equal to the period of time beginning on the
8 first day the general assembly convenes for a first regular session until the last day of the
9 following year. If a member serves less than a full biennial assembly, the member shall receive
10 credited service for the pro rata portion of the full biennial assembly served.

11 2. For the purposes of section 104.1024, the normal retirement annuity of a member of
12 the general assembly shall be an amount for life equal to one twenty-fourth of the monthly pay
13 for a senator or representative on the annuity starting date multiplied by the years of credited
14 service as a member of the general assembly. In no event shall any such member or eligible
15 beneficiary receive annuity amounts in excess of one hundred percent of pay.

16 3. To be covered by the provisions of section 104.1030, or section 104.1036, a member
17 of the general assembly must have served at least three full biennial assemblies.

18 4. **Beginning January 1, 2014, no member of the general assembly shall accrue**
19 **credited service under this chapter.**

20 5. For members who are statewide elected officials, the provisions of this section shall
21 supplement or replace the indicated other provisions of the year 2000 plan. "Normal retirement
22 eligibility" means attainment of age fifty-five for a member who has served at least four years
23 as a statewide elected official, or the attainment of age fifty with a total of years of age and years
24 of such credited service which is at least eighty.

25 [5.] 6. For the purposes of section 104.1024, the normal retirement annuity of a member
26 who is a statewide elected official shall be an amount for life equal to one twenty-fourth of the
27 monthly pay in the highest office held by such member on the annuity starting date multiplied
28 by the years of credited service as a statewide elected official not to exceed twelve years.

29 [6.] 7. To be covered by the provisions of sections 104.1030 and 104.1036, a member
30 who is a statewide elected official must have at least four years as a statewide elected official.

31 [7.] 8. The provisions of section 104.1045 shall not apply to persons covered by the
32 general assembly and statewide elected official provisions of this section. Persons covered by
33 the general assembly provisions and receiving a year 2000 plan annuity shall be entitled to a

34 cost-of-living adjustment (COLA) when there are increases in pay for members of the general
35 assembly. Persons covered by the statewide elected official provisions and receiving a year 2000
36 plan annuity shall be entitled to COLAs when there are increases in the pay for statewide elected
37 officials in the highest office held by such person. The COLA described in this subsection shall
38 be equal to and concurrent with the percentage increase in pay as described in section 105.005,
39 RSMo. No COLA shall be less than zero.

40 [8.] 9. Any member who serves under this chapter as a member of the general assembly
41 or as a statewide elected official on or after August 28, 1999, shall not be eligible to receive any
42 retirement benefits from the system under either the closed plan or the year 2000 plan based on
43 service rendered on or after August 28, 1999, as a member of the general assembly or as a
44 statewide elected official if such member is convicted of a felony that is determined by a court
45 of law to have been committed in connection with the member's duties either as a member of the
46 general assembly or as a statewide elected official, unless such conviction is later reversed by
47 a court of law.

48 [9.] 10. A member of the general assembly who has purchased or transferred creditable
49 service shall not be subject to the cap on benefits pursuant to subsection 2 of this section for that
50 portion of the benefit attributable to the purchased or transferred service.

104.1087. 1. If a member has credited service with more than one selected plan at time
2 of separation of covered employment from all selected plans, then the annuity payable from each
3 selected plan shall be based upon the annuity program, pay record and service record with that
4 selected plan; provided, however, that the total of credited service with all selected plans shall
5 be used for the sole purpose of determining whether or not the member has met the credited
6 service requirement contained in subdivisions (11) and (20) of subsection 1 of section 104.1003
7 and subsections 1 and [4] 5 of section 104.1084 for each selected plan.

8 2. The selected plans cited in this section are:

- 9 (1) Year 2000 plan - basic provisions;
10 (2) Year 2000 plan - general assembly provisions;
11 (3) Year 2000 plan - statewide elected official provisions.

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